

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Tony Underwood

Petitioner,

v.

**Harris County, a.k.a. Harris
Health System, a.k.a Ben Taub
Hospital, and City of Houston,
a.k.a. Houston Police
Department**

Respondent.

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CIVIL ACTION NO. 4:25-cv-2089

**SUPPLEMENTED EMERGENCY PETITION FOR -NON-CRIMINAL- WRIT
OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2254 and 28 U.S.C. § 2241**

Petitioner, Tony Underwood, petitions this Court for an EMERGENCY Petition for Writ of Habeas Corpus to immediately remedy his unlawful detention and restraint of his liberty by state actor **City of Houston** located at 901 Bagby, Houston, Texas 77002 and **Ben Taub Hospital (Harris Health System)** carrying out the state actor’s “policy” located at 1504 Ben Taub Loop, Houston, Texas 77030. Petitioner presents to the Court as follows:

I. INTRODUCTION

Petitioner, Tony Underwood (“Petitioner” or “Tony Underwood”) is a 37-year-old Houston area native and citizen of the United States being held and locked in a secured facility at **Ben Taub Hospital**, against his will. He has never been charged with a crime, much less convicted or sentenced; nor is he a pre-trial detainee. Yet, He is being falsely

imprisoned by a state actor acting under the color of law. He was taken into custody of Ben Taub Hospital through the Houston Police Department going beyond the limits.

This imprisonment is causing him to suffer irreparable harm by delaying and denying access to counsel, comfort from his family while he suffers serious medical needs after being taken into custody without a warrant or a finding of probable cause that he committed a crime. It has not been determined by any court that there is probable cause to arrest Tony Underwood. He is currently being deprived of his right to travel, familial relations, pastoral and spiritual prayer and support, and liberty.

II. JURISDICTION

This action arises under the Constitution of the United States. This Court has jurisdiction under 28 U.S.C. § 2241; Art. I, § 9, cl. 2 of the United States Constitution (Suspension Clause), 28 U.S.C. § 2254 and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of authority of the state of Texas, and such custody is in violation of the Constitution, laws, or treaties of the United States. This court has subject-matter jurisdiction over a claim under the federal habeas statutes since the petitioner is in custody pursuant to some government action in violation of the Constitution or laws of the United States.

Although federal courts are generally precluded from handling probate matters, this case is distinguishable since it involves habeas corpus relief relating to an adult temporary guardianship alleging violation of the Fourth amendment.

This Court may grant relief pursuant to 28 U.S.C. § 2241(c)(3), 28 U.S.C. § 2254 (a), and the All-Writs Act, 28 U.S.C. § 1651.

III. VENUE

Venue lies in the United States District Court for the Southern District of Texas, the judicial district where Petitioner currently is in custody.

IV. PARTIES

Petitioner, Tony Underwood, is a native and citizen of the United States. He has spent eight (8) days in unlawful custody of Ben Taub and City of Houston.

Respondent, City of Houston, a.k.a. Houston Police Department, currently engaged in the unlawful detainment of the person of Tony Underwood.

Respondent, Ben Taub Hospital currently engaged in the unlawful and unreasonable detainment of the person of Tony Underwood.

V. FACTS

1. Tony Underwood is a 37-year-old man who was involuntarily placed in the custody of Ben Taub Hospital facility at 1504 Ben Taub Loop, Houston, Texas 77030.
2. On the evening of Wednesday, April 30, 2025, Tony Underwood was shot in the back by a Houston Police Department Officer.
3. Tony Underwood's injuries are of such grave and life-threatening severity that he remains on life support, rendering his condition critical and raising urgent constitutional concerns regarding his confinement and access to counsel.
4. Tony Underwood is unconscious and entirely incapable of advocating for himself, making immediate court intervention necessary to protect his constitutional rights.

5. He has been denied access to his family, legal counsel, and outside communication, in violation of his First and Fourteenth Amendment rights to familial association, legal access, and due process.
6. His mother, the legal next of kin, has been categorically denied in-person access to her son, despite his extreme critical condition and unconscious state. This is in violation of her Fourteenth Amendment right to familial association and substantive due process.
7. Hospital staff have only contacted her for the limited purpose of obtaining consent for high-risk, life-saving medical procedures. This denies Ms. Underwood, Tony Underwood's mother, the right to meaningful participation in her son's care and infringing on her liberty interest as a parent.
8. There have been several such life-threatening procedures, confirming the seriousness and urgency of his medical condition.
9. She has received no meaningful updates about her son's overall condition, prognosis, or treatment plan, despite repeated inquiries. These actions are depriving her of the ability to make informed medical decisions – core protections guaranteed under the Due Process Clause of the Fourteenth Amendment.
10. This continued denial of access and information deprives her of fundamental parental rights, including the right to familial association and informed medical decision-making.
11. The State's (Houston Police Department) and Ben Taub Hospital's continued refusal to permit access or share critical medical information constitutes an arbitrary and

unjustified interference with her constitutionally protected right to make decisions concerning the care, custody, and control of her child.

12. The State's (Houston Police Department) and Ben Taub Hospital's continued confinement and medical control without legal representation or judicial oversight constitutes a violation of his right to bodily integrity and substantive due process under the Fourteenth Amendment.

13. The State's (Houston Police Department) and Ben Taub Hospital's refusal to permit access by counsel and next of kin is an unconstitutional restriction on Mr. Underwood's right to access the courts and interferes with his ability to seek redress and exercise his habeas corpus rights under Article I, Section 9, Clause 2 of the U.S. Constitution.

14. Furthermore, Counsel engaged in a telephone conversation with the lead Detective, in which the call was mutually recorded and the Detective stated that the Houston Police Department was not denying access to Tony Underwood. Though, when the family went to the police headquarters on May 7th, 2025, the family, specifically Ms. Underwood, was told that access continues to be denied.

VI. CLAIM FOR RELIEF

15. Petitioner realleges and incorporates by reference all paragraphs throughout the Petition. Respondents' continued detention of Petitioner is unlawful and contravenes law.

16. Petitioner continues to languish in detention at a facility, alone, while he fights for his life.

17. He has been detained without due process well over the presumptively reasonable period.
18. Due process would require that he have access to Counsel and his mother, Ms. Patricia Underwood.
19. Accordingly, Respondents' continued detention of Petitioner is contrary to the United States Constitution and human decency.

VII. SUBSTANTIVE DUE PROCESS VIOLATION

20. Petitioner realleges and incorporates paragraphs 1-19 throughout the Petition.
21. Petitioner's continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.
22. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty interest be narrowly tailored to serve a compelling government interest. Any interest Respondents have in detaining Petitioner in order to effectuate their "process" does not justify the indefinite detention of Petitioner, life is literally in the balance and could likely die alone.

VIII. PROCEDURAL DUE PROCESS VIOLATION

23. Petitioner realleges and incorporates by reference paragraphs 1-22 throughout the Petition.
24. Under the Due Process Clause of the Fifth and Fourteenth Amendments, Tony Underwood is entitled to a timely and meaningful notice, and a hearing with an

opportunity to demonstrate that he should not be detained. Petitioner in this case has been denied that opportunity.

25. Petitioner has been denied notice.

26. Petitioner has been denied an opportunity to be heard.

IX. VIOLATION OF SIXTH AMENDMENT

27. Petitioner realleges and incorporates by reference paragraphs 1-26 throughout the Petition.

28. Petitioner has been denied access to counsel, held with no bond.

X. PRAYER FOR RELIEF

29. Petitioner realleges and incorporates by reference paragraphs 1-28 throughout the Petition.

30. Petitioner prays that the Court grant the following relief:

- a. Release of body camera footage to support alleged probable cause;
- b. Assume jurisdiction over this matter;
- c. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under chapter 153 (habeas corpus) of Title 28;
- d. Pursuant to 28 U.S.C. § 2243 issue an order directing Respondent to show cause why the writ of habeas corpus should not be granted, since the petition shows Tony Underwood is entitled to;
- e. Grant Petitioner a writ of habeas corpus directing the Respondents to immediately release Petitioner from “custody”, or in the alternative, order

that Petitioner be provided an expedited hearing before this court and order to show cause for the detention; and,

- f. Enjoin Respondents from denying access to counsel, access to his mother, access to his pastor.

Respectfully Submitted,

/s/Courtney A. Vincent

Courtney A. Vincent

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Admitted:

U.S. District Court, Southern District of Texas

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COUNSEL FOR PETITIONER

Declaration on Petitioner's behalf pursuant to 28 U.S.C. Section 1746 and 28

U.S.C. § 2242

I, Courtney A. Vincent, am submitting this verification on behalf of the Petitioner because I am one of the Petitioner's attorneys. I have personal knowledge of the facts contained herein. I have discussed with the Petitioner's mother the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in the

attached *Petition for Writ of Habeas Corpus* are true and correct to the best of my knowledge/opinion. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: 05/08/2025

/s/ Courtney A. Vincent

Courtney A. Vincent

Counsel for Petitioner Tony Underwood